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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/316,725	05/21/1999	MICHAEL MUNOZ	P-5502	8221

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EXAMINER
DIXON, THOMAS A

ART UNIT	PAPER NUMBER
3629	

DATE MAILED: 09/15/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/316,725	MUNOZ ET AL.
	Examiner	Art Unit
	Thomas A. Dixon	3629

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *26 June 2003* .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-4,6-23 and 25-28* is/are pending in the application.

4a) Of the above claim(s) *5 and 24* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-4,6-23 and 25-28* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

Request for Continued Examination

1. The request filed on 6/26/03 for a Request for Continued Examination (RCE) based on parent Application No. 09/316,725 is acceptable and an RCE has been established. An action on the RCE follows.

Response to Amendment / Arguments

2. Claims 5 and 24 have been cancelled. Claims 1-4, 6-23, 25-28 remain.

3. Applicant's arguments have been considered, but are not persuasive.

4. Though healthcare is not specifically recited in LeVander the steps are the same, and would obviously be applicable to any industry. Conway (5,732,401) has been added to support this obviousness, see below.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 1, 3, 4, 6, 7, 8, 11-13, 16, 21-23, 25-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over LeVander (6,216,108) in view of Conway (5,732,401) further in view of Dossett.

As per Claim 1.
LeVander ('108) discloses:
a) establishing a list of tasks involved in said work process wherein at least one of the said tasks involves execution by a human operator, see figure 5 (206);

b) calculating the expected duration of said tasks by said human operator using an operator independent method of task time measurement, see (210, 212);

c) establishing a first cost component of each task as a function of the expected time of execution of said task and a cost per unit of time for said human operator, see (218);

d) establishing a second cost component of each task dependent on non-labor costs of the process, a portion of each non-labor cost being apportioned to said task as a function of the time of execution of said task by said human operator, machine operating time or other relative consumption of a resource, see (210, 216);

e) maintaining the expected time to complete said activities and the cost per unit time of said operator being maintained in a memory of a computer, see column 9, lines 1-25; and

f) the cost of the activity being calculated using said processor, see column 9, lines 1-25 including summing the first and second components for the task to establish a task cost independent of the efficiency of the human operator, see (214, 218).

LeVander ('108) does not specifically disclose the method of motion analysis or healthcare specifically.

Conway ('401) discloses activity based cost tracking in a healthcare environment. see figures 8A-C and column 12, line 43 – column 14, line 48 for the benefit of efficiently determining the actual cost of procedures and determining the particular efficiency of a particular caregiver.

Dossett teaches, see page 2, lines 5-25, common techniques to develop standard times, and further teaches 6 types of motion analysis, of which one is Maynard Operation Sequence Technique, specifically applicable to short cycle, highly repetitive tasks.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to use the motion analysis technique or one of the others in a healthcare environment for the benefit of efficiently determining the actual cost of procedures and determining the particular efficiency of a particular caregiver.

As per Claim 2, 26.

LeVander ('108) does not specifically disclose the Maynard Operation Sequence Technique.

Dossett teaches, see page 2, lines 5-25, common techniques to develop standard times, and further teaches 6 types of motion analysis, of which one is Maynard Operation Sequence Technique, specifically applicable to short cycle, highly repetitive tasks.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to use the Maynard Operation Sequence Technique or one of the others as a design choice.

As per Claim 4, 27.

LeVander ('108) further discloses the activities of a service business, see figure 2 (10).

As per Claim 6.
LeVander ('108) further discloses the activities are performed by two or more different human operators, see figure 2 (54).

As per Claim 7.
LeVander ('108) further discloses:
f) summing the costs of the tasks in said process to give a process cost, and utilizing the process cost to determine the cost of the work process, see figure 5 (224).

As per Claim 8.
LeVander ('108) further discloses the costs in the work process are associated with a business unit, see column 7, lines 19-28.

As per Claim 11.
LeVander ('108) further discloses said work process is a proposed work process, and the process cost is used to determine the economic outcome of a business decision before it is implemented, see column 9, line 38 – column 10, line 38.

As per Claim 12.
LeVander ('108) further discloses a financial model of revenue costs and profit, see column 7, lines 42-56.

As per Claim 13.
LeVander ('108) further discloses a at least ROI is determined for a capital investment, see column 7, lines 42-56

As per Claim 16.
LeVander ('108) further discloses the utilization ratios are used for the purpose of reallocating work from over-utilized operators to under-utilized operators, see column 8, lines 57-62.

As per Claim 21.
LeVander ('108) further discloses revenue generated by said process is calculated and profitability of said work process is calculated based on the difference between the cost of the process and the revenue, see column 7, lines 16-67.

As per Claim 22.
LeVander ('108) further discloses the difference between the calculated time to complete a task independent of the operator and the actual time taken by the operator is used to establish a risk profile for the business, see column 11, lines 6-31.

As per Claim 23.

LeVander ('108) further discloses a difference between the calculated time to complete a task independent of the operator and the actual time take by the operator is used to establish hidden liability of unperformed work, see column 11, lines 6-31.

As per Claim 25.

LeVander ('108) does not further discloses the task cost is utilized with other task costs for activity based costing.

Conway ('401) teaches task costs utilized activity based costing, see column 2, lines 24-32 for the benefit of accurately pricing services.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the combined task costs of LeVander ('108) as taught by Conway ('401) for the benefit of accurately pricing services.

As per Claim 28.

LeVander ('108) discloses:

calculating the expected duration of said tasks by said human operator using an operator independent method of task time measurement to establish a first component cost, see (210, 212);

establishing a first cost component of each task as a function of the expected time of execution of said task and a cost per unit of time for said human operator, see (218);

establishing a second cost component of each task dependent on non-labor costs of the process, a portion of each non-labor cost being apportioned to said task as a function of the time of execution of said task by said human operator, machine operating time or other relative consumption of a resource, see (210, 216);

maintaining the expected time to complete said activities and the cost per unit time of said operator in a memory of a computer, see column 9, lines 1-25; and

calculating a task cost independent of the efficiency of the human operator for each task using a processor, see column 9, lines 1-25 including summing the first and second components for the task to establish, see (214, 218); and

calculating a total cost utilized to determine the cost of the work process, said calculating performed by using said processor of said computer for summing the costs of the tasks to obtain a total cost utilized to determine the cost of the work process, see column 10, lines 25-33.

LeVander ('108) does not specifically disclose the method of motion analysis or healthcare specifically.

Conway ('401) discloses activity based cost tracking in a healthcare environment. see figures 8A-C and column 12, line 43 – column 14, line 48 for the benefit of efficiently determining the actual cost of procedures and determining the particular efficiency of a particular caregiver.

Dossett teaches, see page 2, lines 5-25, common techniques to develop standard times, and further teaches 6 types of motion analysis, of which one is Maynard

Operation Sequence Technique, specifically applicable to short cycle, highly repetitive tasks.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to use the motion analysis technique or one of the others in a healthcare environment for the benefit of efficiently determining the actual cost of procedures and determining the particular efficiency of a particular caregiver.

6. Claims 2, 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over LeVander (6,216,108) in view of Conway (5,732,401) further in view of Dossett further in view of Isherwood (5,918,219).

As per Claim 2.

LeVander ('108) does not disclose operator independent method of task time measurement is a predetermined motion time system.

Isherwood ('219) teaches the independent task time measurement is a predetermined motion time system, see figure 5 (503) for the benefit of accurate job cost estimating.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to use the predetermined motion time system of Isherwood ('219) in combination with the invention of LeVander ('108) for the benefit of accurate job cost estimating.

As per Claim 14.

LeVander ('108) does not disclose a business goal is set and changes in process cost and time are calculated.

Isherwood ('219) teaches the setting of goals and calculating changes in cost and time, see figure 3 (311, 312 and 316)

7. Claims 15, 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over LeVander (6,216,108) in view of Conway (5,732,401) further in view of Drossett, further in view of Dangat et al (5,971,585).

As per Claim 15.

LeVander ('108) does not limit the running of the process to one time and could be used for the entire business but does not specifically disclose the method is utilized to establish the cost of all work processes in a business.

Dangat et al ('575) teaches management of the total business in multiple tiers from the whole business down to individual operator assignments, see column 1, line 47 – column 3, line 15 for the benefit of effective decision making.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to utilize the process of LeVander ('108) throughout the whole business as taught by Dangat et al ('575) for the benefit of effective decision making.

As per Claim 17.

LeVander ('108) does not disclose reallocating work from over-utilized operators to under-utilized operators.

Dangat et al ('575) teaches work allocation, see column 2, lines 35-49 for the benefit of effective decision making.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to reallocate personnel or machines as taught by Dangat et al ('575) in the invention of LeVander ('108) for the benefit of effective decision making.

As per Claim 18.

LeVander ('108) does not disclose utilization ratios are used for the purpose of bring operators close to a 100% utilization ratio.

Dangat et al ('575) teaches optimization of work allocation, see column 2, lines 8-21 for the benefit of effective decision making.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to optimize the reallocation personnel or machines as taught by Dangat et al ('575) in the invention of LeVander ('108) for the benefit of effective decision making.

As per Claim 19.

LeVander ('108) does not disclose operation costs comprise department costs.

Dangat et al ('575) teaches long range planning which include multiple facilities, which are seen to be departments, see column 4, lines 60-67 for the benefit of effective decision making.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to include departmental costs in the operating costs of the business as taught by Dangat et al ('575) in the invention of LeVander ('108) for the benefit of effective decision making.

As per Claim 20.

LeVander ('108) does not disclose operation cost comprise total business operating costs.

Dangat et al ('575) teaches long range planning which include cost/pricing, see column 2, lines 47-65 for the benefit of effective decision making.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to include total operating cost of the business as taught by Dangat et al ('575) in the invention of LeVander ('108) for the benefit of effective decision making.

8. Claims 9, 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over LeVander (6,216,108) in view of Conway (5,732,401) further in view of Drossett, further in view of Nick (6,009,406).

As per Claim 9.

LeVander ('108) does not disclose the costs of the work process comprise business line costs of a business line.

Nick ('406) discloses a including costs of a product line and custom engineered product line, see column 2, lines 6-63 for the benefit of maintaining profitability in a competitive market.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to include the costs of a product line in the costs of the work process, as taught by Nick ('406) for the benefit of maintaining profitability in a competitive market.

As per Claim 10.

LeVander ('108) does not disclose the business line costs and revenue are used to calculate the profitability of the business line.

Nick ('406) discloses a including costs of a product line and custom engineered product line, see column 2, lines 6-63 for the benefit of maintaining profitability in a competitive market.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to include the costs of a product line in the costs of the work process, as taught by Nick ('406) for the benefit of maintaining profitability in a competitive market.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas A. Dixon whose telephone number is (703) 305-4645. The examiner can normally be reached on Monday - Thursday 6:30 - 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (703) 308-2702. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

Thomas A. Dixon
Examiner
Art Unit 3629

September 12, 2003